

APR 2 2 2004

PTO/SB/64 (08-03)

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)
32887-253200

First named inventor: PONASIK, J. et al.

Application No.: 09/776,984

Art Unit: 1713

Filed: February 5, 2001

Examiner: Roberto Rabago

Title: CATALYST COMPOSITIONS FOR THE POLYMERIZATION OF OLEFINS

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX: (703) 308-6916

NOTE: If information or assistance is needed in completing this form, please contact
Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee -- required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity - fee \$_____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☒ Other than small entity - fee \$1,330 (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in
the form of _____ (identify type of reply):

☐ has been filed previously on _____.

☒ is enclosed herewith.

B. The issue fee of \$ 1,600

☐ has been paid previously on _____.

☒ is enclosed herewith.

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This collection of information is required by 37 CFR 1.137. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$_____ for a small entity or \$_____ for other than a small entity) disclaiming a period equivalent to the period of abandonment is enclosed herewith (see PTO/SB/63).

4. Statement. The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

April 21, 2004

Date

Samuel B. Rollins

Signature

Telephone
Number: (336) 607-7300

Samuel B. Rollins

Typed or printed name

Kilpatrick Stockton LLP, 1001 West Fourth St.

Address

Winston-Salem NC 27202

Address

Enclosures: ☒ Fee Payment

☒ Reply

☐ Terminal Disclaimer Form

☒ Additional sheets containing statements establishing unintentional delay

☒ Other : Change of Correspondence Address; Fee Address Indication Form

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(A)]

I hereby certify that this correspondence is being:

☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

☐ transmitted by facsimile on the date shown below to the Patent and Trademark Office at (703) 308-6916.

Date

Signature

Samuel B. Rollins

Typed or printed name of person signing certificate



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants	:	J. Ponasik, et al.
Serial No.	:	09/776,984
Filing Date	:	February 5, 2001
For	:	CATALYST COMPOSITIONS FOR THE POLYMERIZATION OF OLEFINS
Examiner	:	Roberto Rabago
Art Unit	:	1713

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**RENEWED PETITION TO REVIVE APPLICATION FOR
UNINTENTIONAL ABANDONMENT**

Applicants respectfully petition under 37 C.F.R. § 1.137(b) that the above identified application, Serial Number 09/776,984, be revived based on unintentional abandonment of the application.

FACTS

When the present application was filed on February 5, 2001, the Correspondence Address for the application was Mr. Bernard Graves, Kilpatrick Stockton LLP, 3500 One First Union Tower Center, 301 South College Street, Charlotte, NC 28202-6001. At the time of filing, Mr. Graves was employed by Kilpatrick Stockton and was responsible for prosecuting the application. Subsequent to filing, Mr. Graves left his position at Kilpatrick Stockton and began employment with the assignee of the present application, Eastman Chemical Company.

In the normal course of business, any correspondence from the Patent and Trademark Office ("PTO") to Kilpatrick Stockton's Charlotte office was and is

forwarded to Kilpatrick Stockton's Winston-Salem office for docketing and routing to the attorney responsible for prosecution.

Correspondence related to the present application was timely received and responses were timely filed for the present application up to April 3, 2003, when an Office Action response was filed by the undersigned attorney.

On December 1, 2003, Ms. Pam Armfield of the PTO contacted Mr. Graves at his current place of employment, Eastman Chemical Company. Ms. Armfield informed Mr. Graves that a communication sent by the PTO to him at Kilpatrick Stockton's Charlotte office at 3500 One First Union Tower Center was returned to the PTO. Ms. Armfield did not describe the nature of the communication returned to the PTO.

After communicating with Mr. Graves, the undersigned attorney faxed a Change of Correspondence Address form to Ms. Armfield on December 3, 2003. The Change of Correspondence Address form changed the correspondence address to Charles W. Calkins, Kilpatrick Stockton LLP, 1001 West Fourth St., Winston-Salem, North Carolina 27101. The change in the correspondence address was entered to expedite the receipt in Kilpatrick Stockton's Winston-Salem office of the communication returned to the PTO.

On December 2, 2003, the undersigned attorney also contacted Ms. Armfield to alert her to expect the Change of Correspondence Address form and to forward the returned communication to the updated address. During the conversation, Ms. Armfield did not describe the nature of the communication that was returned to the PTO.

Following the December 2 communication with Ms. Armfield and the filing of a Change of Correspondence Address on December 3, no communication was received at the updated address. Believing that the returned communication was an Office Action Summary and Detailed Action, on December 23, 2003, the undersigned attorney contacted Examiner Roberto Rabago to confirm that the correspondence

address was changed and to determine when the communication from the PTO would be mailed to the updated address. Examiner Rabago indicated that the communication was not an Office Action Summary and Detailed Action as believed by the undersigned attorney. Examiner Rabago indicated that the communication was either a Notice of Allowance or a Notice of Abandonment for failure to pay the issue fee.

Prior to the conversation with Examiner Rabago on December 23, 2003, no one associated with the prosecution of this application was aware that a Notice of Allowance or a Notice of Abandonment was mailed from the PTO to Mr. Graves in Kilpatrick Stockton's Charlotte office at 3500 One First Union Tower Center. Even after speaking with Ms. Armfield regarding the returned communication, no correspondence has been received for the present application since the Office Action mailed December 5, 2002.

On December 26, 2003, Applicants obtained a copy of the file history including the Notice of Allowance and the Notice of Abandonment by contracting with metroPatent, Inc. to copy the file in the PTO.

On January 12, 2004, Applicants filed a Petition to Withdraw the Holding of Abandonment, and the Petition was dismissed in a decision mailed February 27, 2004.

REMARKS

Applicants respectfully petition under 37 C.F.R. § 1.137(b) that the the above identified application, Serial Number 09/776,984, be revived based on unintentional abandonment of the application.

According to 37 C.F.R. § 1.137(b), a grantable petition filed to revive an abandoned application must be accompanied by:

- (1) the required reply, unless previously filed. In an application for patent abandoned for failure to pay the issue fee, the reply must include

payment of the issue fee. Payment of the issue fee of \$1,600 is included with this petition.

- (2) the petition fee set forth in 37 C.F.R. § 1.17(m). This petition includes payment of the petition fee of \$1,330.
- (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional.

The undersigned attorney states that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 C.F.R. § 1.137(b) was unintentional. As described in the FACTS section of this Petition, the due date for the required reply was August 21, 2003. Prior to the December 23, 2003, conversation with Examiner Rabago, Applicants were unaware that a Notice of Allowance was mailed from the PTO to Mr. Graves in Kilpatrick Stockton's Charlotte office. Applicants filed a Petition to Withdraw the Holding of Abandonment on January 12, 2004. This Renewed Petition if being filed within 2 months of the mailing on February 27, 2004, of the Decision dismissing the Petition to Withdraw the Holding of Abandonment.

- (4) any terminal disclaimer required pursuant to 37 C.F.R. 1.137(c). Since this application is a utility application filed after June 8, 1995, no terminal disclaimer is required.

CONCLUSION

Accordingly, Applicants respectfully petition that the application be revised and that application pass to issuance.

Respectfully submitted,

Date: April 21, 2004



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